

Application No.: 09/964,211

2

Docket No.: 333772000101

REMARKS/ARGUMENTS

Claims 1-87 are pending in the present application. The Examiner rejected claims 1-25, 29-68, 72-87 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,204,679 ("Maeng"), and further rejected claims 26-28 and 69-71 under 35 U.S.C. 103 as being unpatentable over Maeng in view of U.S. Patent 6,563,331 ("Gray").

Maeng is a division of U.S. application number 09/219,241 (the "'241 application'"), filed on December 22, 1998, which is now U.S. Patent 6,313,652 ("the '652 patent'"). A counterpart of the '241 application was first filed in Korea on December 26, 1997. Therefore, the critical date of Maeng as a 102(e) reference is its U.S. filing date of December 22, 1998.

Gray was filed in the United States on November 4, 1998 and issued on March 20, 2001. Thus, the critical date of Gray as a 102(e) reference is its U.S. filing date of November 4, 1998.

The present application is a continuation of U.S. application no. 09/254,084 ("084 application"), which issued as U.S. Patent No. 6,459,259 ("259 patent"). The '259 patent claims priority to a Japanese application filed on July 2, 1997 (Application No. 9-176762). The corresponding PCT application was filed on July 2, 1998 (PCT/JP98/02979). In an office action dated May 23, 2003, the Examiner acknowledged the claim for foreign priority of the present application under 35 U.S.C. 119. Accordingly, the priority date of the present application under 35 U.S.C. 119 is July 2, 1997.

According to the MPEP, "35 U.S.C. 119(a)-(d) and (f) does not modify section 102(e), which is explicitly limited to certain references 'filed in the United States before the invention thereof by the applicant'" (emphasis added). Therefore, the foreign priority date of a reference under 35 U.S.C. 119(a)-(d) and (f) cannot be used to antedate the application filing date. In contrast, the "applicant may be able to overcome the 35 U.S.C. 102(e) rejection by proving he or she is entitled to his or her own 35 U.S.C. 119 priority date which is earlier than the reference's U.S. filing date. *In re Hilmer*, 359 F.2d 859, 149 USPQ 480 (CCPA 1966)." (See MPEP 2136.03.)

sf-1648386 v2

Application No.: 09/964,211

3

Docket No.: 333772000101

Based on the foregoing, the 102(e) dates for Maeng and Gray are December 22, 1998 and November 4, 1998, respectively. Since the priority date of the present application is July 2, 1997, it predates the 102(e) dates of both prior art references. Thus, applicants respectfully submit that the Maeng and Gray references are not prior art to the present application under 35 U.S.C. 102(e).

sf-1648386 v2

Application No.: 09/964,211

4

Docket No.: 333772000101

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conversation would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 333772000101. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: May 13, 2004

Respectfully submitted,

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sf-1648386 v2